69

SUPREME COURT OF THE UNITED STATES.

No. 229.

THE UNITED STATES, APP'TS,

vs.

RAFAEL VILLAVICENCIO.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

"San Geronimo."

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Transcript of the proceedings in case No. 61.

RAFAEL VILLAVICENCIO, claimant, *vs.* THE UNITED STATES, defendant. } For the place named "San Geronimo."

1 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA:

Be it remembered, that on this twenty-first day of February, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Rafael Villavicencio, for the place named "San Geronimo," was presented and ordered to be filed and docketed with No. 61, and is as follows, to wit:

(*Vide* page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *May* 18*th*, 1852.

In case No. 61, Rafael Villavicencio, the deposition of Miguel Avila, a witness in behalf of the claimant, taken before Commissioner Harry I. Thornton, was filed, and is in the words and figures as follows, to wit:

(*Vide* pages of this transcript 4.)

SAN FRANCISCO, *Feb'y* 8*th*, 1853.

Case No. 61, Rafael Villavicencio, for the place named "San Geronimo," called: The counsel for the claimant, Mr. Jones, read the petition and the papers in evidence; the associate law agent of the United States filed his brief. Case submitted and taken under advisement by the board.

2 SAN FRANCISCO, *Feb'y* 14*th*, 1853.

In case No. 61, Rafael Villavicencio, for the place named "San Geronimo," Commissioner Hiland Hall delivered the opinion and the decree of final confirmation of this board.

Ordered, that the opinion and the decree of final confirmation of this board, delivered this day in this case, be recorded on the journal. Which opinion, and decree are in the words and figures as follows, to wit:

(*Vide* pages of this transcript 19.)

3 *Petition.*

Before the honorable the commission to ascertain and settle private land claims in California.

Rafael Villavicencio, a citizen of said State, gives notice that he claims, by virtue of a grant from the Mexican nation, a tract of land called San Geronimo, in the county of San Luis Obispo, in said State, with the boundaries described in the grant and in the juridical measurement and possession thereof, to wit: by the sea-coast on one side, by the sierra or mountain range on the other, and at either end by the lines demarked between claimants' said land and the rancho of Don Julian Estrada and Don Vicente Feliz.

Said land was conceded to claimant by a grant issued on the 24th July, 1842, by Juan B. Alvarado, constitutional governor of the department of Californias, and thereby authorized to grant lands in the name and on behalf of the Mexican nation; on the 9th of August, 1842, juridical measurement, designation of limits, and delivery of said land was made at the instance, and on behalf of claimant, by J. Mariano Bonella, justice of the peace of that jurisdiction.

Said land has been occupied by claimant according to law and the directions of the grant, and is now held by him in quiet possession. Said land has not been accurately measured, but its boundaries are natural, and well known and defined. It is supposed to contain the quantity of two sitios of ganada mayor, little more or less. There is no conflicting claim to said land or any portion thereof in the knowledge of claimant.

A copy and a translation of said grant and a copy of said act of juridical delivery are herewith presented, and the originals will be produced and proved as may be required.

JONES, TOMPKINS & STRADE,
Attorneys for Claimants.

4 Filed in office Feb'y 21st, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of Miguel Alvila

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS,
San Francisco, May 18th, 1852.

On this day, before Henry I. Thornton, one of the commissioners for ascertaing and settling private land claims in the State of California, came Miguel Alvila, a witness produced in behalf of the claimant, Rafael Villavicencio, whose petition is No. 61 on the docket of the board, and was duly sworn, his evidence being given in the Spanish language, was interpreted by the secretary, George Fisher:

Questions by claimant.

Question 1st. What is your name, age, and place of residence; and how long have you resided there?

Answer. My name is Miguel Alvila; my age is fifty-three years; my residence is my rancho in the county of San Luis Obispo, in the State of California, where I was born.

Question 2d. Do you know Rafael Villavicencio, and how long have you known him?

Answer. I have known him since my boyhood.

Question 3d. What was his birthplace, and of what county was he a citizen?

Answer. I do not know the precise place of his birth; that he was born in California, and was a citizen of Mexico.

Question 4. Did he have a wife and children in 1842?

Answer. He had a wife and children at that time.

Question 5. Do you know a tract of land called San Geronimo? If so, state where it lies, and about what quantity it contains.

Answer. I do know such a tract of land; it lies west of San Luis Obispo, near the sea-coast, and bounded on it; and I do not know its contents. It is in the State of California.

Question 6. Who has been in possession of this tract of land, and how long has it been occupied?

Answer. Since my knowledge of the place, it has been occupied by the claimant, and some time before 1842—say in the latter part of 1838, and he still lives on it.

Question 7. How did he occupy this land; and did he or not cultivate it, and to what extent; and what improvements did he make upon it?

Answer. He lived there with his family; settled it with a large stock of cattle, horses, mules, sheep; cultivated corn, wheat, &c, vegetables; built a dwelling-house, and houses for Indians, his laborers; planted fruit trees.

Cross questions by U. S. law agent.

Question 1st. When were the houses of which you speak built on the tract of land?

Answer. In 1839 there were built a stick house on the land in which his family lived, and built of the same materials the houses for the Indians. Afterwards, in about four or five years, he moved to another part of the tract and built an adobie house for his residence, and other outhouses, and manufactured blankets, and put up looms for his Indians, and a grist mill.

Question 2. To what extent as to quantity of ground did the claimant cultivate?

Answer. The quantity the claimant cultivated in grain, &c., as stated, was of several fields; all the lands cultivated were more than a mile long and about five hundred varas in width. It was cultivated on a very large scale.

MIGUEL ALVILA.

The law agent duly notified and present.

Sworn to and subscribed before me this 18th of May, 1852.

HARRY I. THORNTON,
Com'r, &c.

Filed in office May 18th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

7 *Demarcacion de S. Luis Obispo, en jurisdiction de Monterey, año de* 1842.

Espediente formade en la posecion juridica q. se dio à D. Rafae Villa del rancho de S. Geronimo.

8 *Expediente.*

Sello tercero, dos reales.

Habitado provicionalmente por la aduana maritima del puerto de Monterey en el departmento de las Californias, para los años de mil ocho cientos cuarenta y mil ocho cientos cuarenta y uno.

XIMENO.
ANTONIO MARIA OSIO.

Revalidado para los años de 1842 y 1843.

ALVARADO.
ANTONIO M'A OSIO.

{ AD'A MARIT'A DE MONT'Y. MEXICAN EAGLE. }

S. LUIS OB'PO, *Ag'to* 6 *de* 842.

Por presentado y admitido p'a el Martes 9th del corr'te (previa citacion de los colindantes.) Se darà posecion verificando las medidas del terreno q se le ha concedido yo el juez de paz de esta demarcacion asi lo decrete y firme.

BONILLA.

SR. JUEZ DE PAZ DE S. Luis OBISPO. El ciudadano Rafael Villa natural de este departamento ante V. como mas haya lugar digo: q'e en virtud del titulo y deseño que acompaño y p'a la orden del estmo Sr. gobernador q. lo faculta a V. se sirva dame la posecion juridica del terreno q se me ha concedido. Por tanto:

A V. suplico se siriba acceder à me peticion y Señalar dia p'a verificar las medidas en lo q. recivire gracia y justicia, y juro sa.

San Geronino, Ag'to 5 de '42.

RAFAEL VILLA.

9 Sello tercero, dos reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey en el departamento de las Californias, para los años de mil ocho cientos cuarenta y mil ocho cientos cuarenta y uno.

XIMENO.
ANTONIO MARIA OSIO.

Revalidado para los años de 1842 y 1843.

ALVARADO.
ANTONIO M'A OSIO.

{ AD'A MARIT'A DE MONT'Y. EAGLE }

LUIS OBISPO, *Ag'to* 6 *de* 842.

Citiso a los colindantes D. Julian Estrada y D. Vicente Feliz p'a q. concurran el dia 9 al rancho de D. Rafael Villa. Yo el juez de paz de esta demarcacion asi lo decretè y firme.

BONILLA.

S. LUIS OB'PO, *Ag'to* 8 *de* 842.

Con esta fha se sitaron a[illegible] D. Julian Estrada y D. Vicente Feliz p'a q. concurran mañana 9 al rancho de D. Rafael Villa à las 9 de la mañana, y se asento p'r diligencia.

MARIANO BONILLA.

En el rancho de S. Geronimo à las nueve dias del mes de Ag'to del año de mil y ocho cientos cuarenta y dos à las nueve de la mañana, siendo yo el juez de paz de la demarcacion de S. Luis Ob'po presente en la casa de habitacion de D. Rafael Villa, llegaron à ella D. Julian Estrada y D. Vicente Felis p'r la citacion q. se les nizo como colindantes y lo asente p'r diligencia q. firme.

MAR'NO BONILLA.

10 Yncontinente en el mismo parage dia, mes y año, siendo presente D. Rafael Villa, y el infrascripto juez de paz acompañado de los de mi asistencia hece medir un cordel con el objeto de proceder à las medidas del terreno, y al efecto se medio fielm'te un cordel de cincuenta v's castellanos a cullos estremo se ataron dos estacas, y p'r su constancia asente este p'r diligencia q firme con los de asistencia.

JULIAN ESTRADA.
J. MAR'NO BONILLA.

Be asista: GUILLERMO RIO.

En seguida en el mismo parage, dia, mes yaño yo el juez de paz de la demarcacion de S. Luis Ob'po con los de asistencia, teniende presente el no haber un perito agrimesor dispuse nombrar de los concurrentes dos fieles medidores cordeleros y al efecto nombre a D. Victor Linares y Nieves Robles, los cuales aceptando este encargo se obligaron vajo el juram'to qu prestaron a desempenaslo fielm'to asentandolo p'r diligencia q. fumaron los de asistencia conmigo y los nombrados q. p'r no saber firmar hicieron una señal de cruz.

J. MAR'NO BONILLA.

De asista: JULIAN ESTRADA.
VICTOR LINARES.
De asista: GUILLERMO RIO.
NICHOLAS + ROBLES.

A continuacion en el mismo parage dia mes y año a las diez de la mañana y el jues de paz de la demarcacion de S. Luis Ob'po acompañado de los de mi asistencia y concurentes y citados, salimos de la casa de habitacion de D. Rafael Villa y nos encaminamos à el lugar en

donde segun su deseño, senala sus linderos con D. Vicente Felis en el cual p'a dar principio a las medidas, se fijo una cruz en la orilla de
11 una arroyo y la playa, y de alli tomando los medidores el cordel p'r sus estremos ya fijos en estacas, se comenzo a medir p'r la playa y costo rumbo al N. O. hta llegar al portezuelo, lindero con D. Julian Estrada, habiendose medido hta dho punto dos cientos y cincuenta cordeles de cincuenta varas y en dho lugar se fijo una cruz; de alli en seguida se tiro el cordel de la playa a la sierra rumbo al N. E. y se midieron cien cordeles hta al pie de dha sierra, señalando aquel termino y lindero; se continuaron los medidas p'r la sierra y lomeria en linea paralela a la costa, hasta un encino q. se senarlo p'r termino y lindero con D. Vicente Felis y se midieron dos cientos y cincuenta cordeles; de alli p'r concluir las medidas se tiro el cordel al S. O. de la sierra de la playa pa la lomeria hta el punto en donde se comenzo a medir y se contaron cien cordeles, con lo q. se concluyo la medida del terreno q. queda comprendido vajo la circunferencia de siete cientos cordeles de a cincuenta varas castellaños; concluidas de este modo las referidas medidas y siendo conformis las colindantes p'a perfeccionar el acto en presencia de todos los concurrentes tome p'r la mano a D. Rafael Villa y en voz claro le dije; en nombre de la Nacion Mejicana doy a V. la posecion del terreno q. se ha medido, y respondiendo q la tomaba p'a manifestar q. habiendo adquirido el dominio util y directo, era dueño y Sr. absoluto de aquel terreno, cabo la tierra, arranco yerbas y tiro piedras, con le q. se concluyo, el acto y firme con los de asistencia y uno de los colindantes p'a no saber fimar hizo una señal de cruz.

J. MAR'NO BONILLA.

De asisto: JULIAN ESTRADA.
VICENTE + FELIS.
De asisto: GUILLERMO RIO.

S. LUIS OB'PO, *Ag'to* 10 *de* 842.

12 De buelbanse estas diligencias originales al interesados p'r testimonio de adquisicion de propiedad y el uso q le convenga.

BONILLA.

S. LUIS OB'PO, *Ag'to* 11 *de* 842.

Atendido el anto antecedento con esta fha se debolvio a D. Rafael Villa este exped'te en 6 fs. utiles y lo asente p'r diligencia q. rubrique.

(Rubrica.)

Queda tomada razon de estas diligencias en el libro correspondiente a fs. 8 y 9.

BONILLA.

Filed in office Feb'y 8, 1853.

GEO. FISHER, *Sec'y.*

(Here follows map marked original page 12.)

13 Sello primero, seis pesos.

Habilitado por la aduana maritima de Monterey de la Alta California para los años de 1842 y 1843.

ALVARADO.
ANTONIO M'A OSIO.

Original Grant.

Juan B. Alvarado, gobernador constitucional del departamento de las Californias.

Por cuanto el ciudadano Rafael Villavicencio ha pretendido para su beneficio personal y el de su familia el parage conocido con el nombre de San Geronimo, colindante con el rancho de D. Julian Estrada con el de ciudadano D. Vicente Felis, con el sierra y el mar practicadas previamente las diligencias y averigunciones consornientes segun lo dispuesto por leyes y reglamentes, usando de las facultadas que me son conferidas a nombre de la nacion Mejicana, he benido en concerderle el terreno mencionado, declarandole la propiedad de el por las presentes letras. Sujelandose a la aprobacion de la exma junta departamental y bajo las condiciones siguientes.

'1a. Podra sercarlo sin perjudicar las trabesias caminos y sevidumbres; lo disfrutara libre y exclusivamente, destinandolo al usi á cultivo q. mejor le acomode, prero dentro de un año fabricara casa y estara habitada.

2a. Solicitara del juez respectivo que le de la posecion juridica en virtud de este despacho por el cual se demarcaron los linderos en cuyos limites pondia á mas de las mojoneras, algunos arboles frutales ô silvestres de alguna utilidad.

3a. El terreno de que se hace donacion es de dos sitios de ganador mayor segun esplica el deseño que corre agregado en el espediente respectivo. El juez que diero la posecion le hara medir conforme
14 a ordenanza quedando el subrante que resulte à la nacion para los usos convenvinientes.

4a. Si contravinien à estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de el en el libro respectivo y se entregue al interesado pa su resguardo y demas fines.

Dado en Monterey à veinte y cuatro de Julio de mil ocho cientos cuarenta y dos.

JUAN B. ALVARADO.
MAN'L JIMENO, *Srio.*

Queda tomado razor de este despacho en el libro de scientos de terrenos baldios a fija 4 V'ta.

JIMENO.

Filed in office Feb'y 8th, 1853.

GEO. FISHER, *Sec'y.*

15 *Translation of title.*

First seal, six dollars, qualified by the maritime custom house of Monterey of Upper California for 1842 and '43.

ALVARADO.
ANT'O M'A OSIO.

{ Custom-house seal. } Juan B. Alvarado, constitutional governor of the department of the Californias.

Whereas citizen Rafael Villavicencio has solicited for his benefit and that of his family the place known by the name of San Geronimo, bounding with the rancho of D'n Julian Estrado, with that of citizen Vicente Felis, with the sierra and the sea, having previously made the proper inquiries and investigations according to what is provided in the laws and regulations, using the powers conferred upon me in the name of the Mexican nation, I have conceded to him the said tract, declaring to him the ownership of it by these present letters, subject to the approbation of the most excellent departmental junta, and under the following condition.

1. He may enclose it without injury to the crossings, roads and easements; enjoy it freely and exclusively, appropriating it to the use or culture that suits him, and within a year he shall build a house and it shall be inhabited.

2. He shall solicit of the proper magistrate to give him juridical possession in virtue of this despatch, by whom shall be demarked the boundaries, in the limits of which he shall put, besides the landmarks, some fruit trees or useful wild ones.

3. The tract of which donation is made is of two sitios of ganada mayor, according as is explained in the map attached to the record. The judge who may give him possession shall cause it to be measured according to ordinance, the overplus which shall result remaining to the nation for its convenient uses.

16 4. If he contravene these conditions he shall lose his right to the land, and it shall be denunciably by another.

In consequence, I order that, being held firm and valid, this title account be taken of it in the proper book, and this be delivered to the party for his security and other ends.

Given in Monterey the 24 of July, 1842.

JUAN B. ALVARADO.
MANUEL JIMENO, *Secretary.*

Registered in the book of records of vacant lands, at the reverse of folio 4.

JIMENO.

District of San Luis Obispo, in the jurisdiction of Monterey, year 1842. Espidante formed in the juridical possession given to D'n Rafael Villa, of the rancho of San Geronimo.

Third seal, two reales, provisionally qualified by the maritime cus-

tom-house of the port of Monterey, in the department of the Californias, for the years 1840 and 1841.

JIMENO.
ANTONIO M'A OSIO.

Revalidated for the years 1842 and 1843.

ALVARADO.
ANTONIA M'A OSIO.

{ Custom-house seal. } S'or justice of the peace of S. Luis Obispo. The citizen Rafael Villa, native of this department, before you in the best form, says that in virtue of the title and map which accompany this, and by the order of the most excellent s'or governor which authorizes it, that you will be pleased to give me the juridical possession of the tract which has been conceded to me. Wherefore I pray you to be pleased to accede to my petition and fix a day to perform the measurements in which I shall receive grace and justice. I swear, &c

S. Geronimo, 5 August, 1842.

RAFAEL VILLA.

17 SAN LUIS OBISPO, *August* 6, 1842.

Is received and admitted the 9th of the present month, (previously being cited the adjoining neighbors,) the possession will be given verifying the measurement of the land which has been conceded. I the said judge of the peace of this district, thus decree and sign.

BONILLA.

SAN LUIS OBISPO, 6 *Aug.*, 1842.

Let the adjoining neighbors, Julian Estrada and Vicente Felis be cited, that they may meet on the 9th inst. at the rancho of D. Rafael Villa. I the said justice of the peace of this district thus decree and sign.

BONILLA.

SAN LUIS OBISPO, 8 *Aug.*, 1842.

This day were cited D'n Julian Estrada, and D'n Vicente Felis, that they should meet to-morrow, the 9th, at the ranch of D'n Rafael Villa, at nine in the morning, and it is thus noted in the process.

MARIANO BONILLA.

In the rancho of San Geronimo, 9th August, 1842. at 9 o'clock in the morning, I, the justice of the peace of the jurisdiction of S. Luis Obispo, being present at the house of D'n Rafael Villa, arrived there D'n Julian Estrada and D'n Vicente Felis, pursuant to the summons made to them as adjoining neighbors, and I note it in the process which I sign.

MARIANO BONELLA.

I immediately in the same day, place, month and year, being present D'n Rafael Villa ; I the within written justice of the peace, caused to

be measured a cord for the purpose of proceeding to the measurement of the tract, and to that end faithfully measured a cord of fifty castillian varas, at the extremities of which they put two stakes; and in testimony I put it in the process and sign with those assisting.

J. MARIANO BONELLA.

Witness: JULIAN ESTRADA.
Witness: GUILLERMO RIO.

In continuation in the same place, day, month and year, I, the justice of the peace of the district of S. Luis Obispo, with those assisting, (there not being present any practical surveyor,) directed
18 that there should be named among those present two faithful measurers by cords, and to that effect named Victor Lenares, and Nicholos Robles, who accepted the charge, and obligated themselves under the oath which they took to fulfil it faithfully. Noting it in the process, those assisting signed with me, and those nominated not knowing how to sign made the mark of the cross.

J. M'A BONILLA.

Witness: JULIAN ESTRADA.
Witness: GUILLERMO REY.
VICTOR S. LENARES.
NICHOLAS × ROBLES.

In continuation in the same place, month, day, and year, at 10 o'clock in the morning, I, the justice of the peace of the district of S. Luis Obispo, accompanied by those assisting me and those present above-named, we went from the dwelling-house of D. Rafael Villa, and we went to the place where, according to his map, his boundaries are marked with Don Vicente Felis, where, in order to begin the measurements, was fixed a cross in the margin of a creek and the beach; and further, the measures taking the cord by its ends, already fixed by stakes, they commenced to measure by the beach and coast (direction N. W.) till they arrived at the Portezuelo boundary, with D'n Julian Estrada, having measured to said point two hundred and fifty cords of 50 varas, and at said place they fixed a cross; from thence, in continuation, was drawn the cord from the beach to the sierra, (direction N. E.,) designating that as the terminus and boundary; the measurements were continued by the sierra and lomeria, in a parallel line to the coast, up to an oak which was designated for a limit, and boundary with Don Vicente Felis, and they measured 250 cords from there; to conclude the measurements was drawn the cord to the S. W. of the sierra, to the beach of the hills, to the point of beginning, and were counted 100 cords, with which was concluded the measurement of the tract, which is comprehended in the circumference 700 cords of 50 castillian varas.
19 Concluded in this manner, said measurements, and the adjoining owners concurring, in order to perfect the act, before all those present I took D'n Rafael Villa by the hand, and in a distinct voice said to him: In the name of the Mexican nation I give to you possession of the land that has been measured; and he answering that he took it in order to manifest, that having acquired the dominion useful and direct, he was owner and absolute lord of that

land. He broke the earth, pulled up herbage, and threw stones, with all which concluded the process; and I sign it with those assisting me and one of the adjoining neighbors, the other, not knowing how to sign, makes the mark of the cross.

J. MARIANO BONILLA.

Wi,ness: JULIAN ESTRADA.
Witness: GUILERMO RET.
VICENTE + FELIS.

SAN LUIS OBISPO, 10 *Aug.*, 1842.

Let this original process be returned to the party for a testimonial of the acquiescence of property and the uses which suit him.

BONELLA.

S. LUIS OBISPO, 11 *Aug.*, 1842.

In pursuance of the preceding act, on this day was returned to D'n Rafael Villa this record in six written folios, and I note it in the process, and sign with a scroll, (scroll.) This process is recorded in the proper book, at folios 8 and 9.

BONILLA.

I certify the foregoing to be a true, substantial translation of the Spanish document of the same tenor and date, purporting to be the original on file in this office in case No. 61, Rafael Villavicencio, claimant for the place named San Geronimo.

(Signed) GEO. FISHER, *Sec'y.*

Filed in office Feb'y 8th, 1853.

(Signed) GEO. FISHER, *Sec'y.*

20 *Opinion.*

No. 61.—Rafael Villavicencio, claimant.

Rafael Villavicencio claims a tract of land of two square leagues in extent, situated in the county of San Luis Obispo, called the San Geronimo, and asks that his title thereto may be confirmed by this board. In support of his claim he produces a grant to himself of the land by Gov. Juan B. Alvardo, dated July 24, 1842, which grant is proved to be genuine by parol evidence, and by the public archives of the former government. He also shows that juridicial possession of the land was given him on the 9th of August, 1842; that he was then living on the place with his family, and that he has continued to reside there ever since, raising stock and cultivating the land extensively.

The land appears to be within ten (10) leagues of the sea-coast, and there is no proof that the grant has been approved by the departmental assembly; but these objections we have uniformly held to be insufficient to invalidate a claim, and we think this claim should be confirmed, and we make a decree accordingly. Commissioner Thornton concurring in the result.

HILAND HALL.

Decree.

No. 61.—Rafael Villavicencio, claimants.

This board, on full consideration having come to the conclusion that the claim is valid, now proceed to make a deeree of final confirmation as follows, viz:

It is decreed that the said claim be confirmed to the extent and quantity of two square leagues, being the same land described
21 in the grant, and of which the possession was proved to have been long enjoyed; provided that the said quantity of land granted and now confirmed to the claimants be contained within the boundaries called for in the said grant and map to which the grant refers; and if there be less than the said quantity of two square leagues within said bounds, then we confirm to the claimant that less quantity.

Given under our hands this 14th day of February, 1853.

HILAND HALL,
HARRY I. THORNTON,
Commissioners.

Filed in office Feb'y 14, 1853.
(Signed) GEO. FISHER, *Sec'y.*

23 *Certificate of clerk of land commission.*

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing twenty pages, numbered from 1 to 20, both inclusive, to contain a true, correct, and full transcript of the records of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 61 on the docket of the said board, wherein Rafael Villavicencio is the claimant against the United States, for the place known by the name of San Geronimo.

In testimony whereof I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco,
[SEAL.] California, this twenty first day of June, A. D. 1854, and of the independence of the United States of America the seventy-eighth.

GEO. FISHER, *Sec'y.*

24

25 *Notice of appeal from Att'y General.*

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, 11th September, 1854.

RAFAEL VILLAVICENCIO
vs.
THE UNITED STATES.

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 10th day of June, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

CUSHING,
Attorney General.

Filed Nov. 7, 1854.

C. E. CARR, *Clerk.*

26

27 *Petition of att'y of U. S. for review, &c.*

In the district court of the United States for the southern district of California, Los Angeles county.

RAFAEL VILLAVICENCIO
vs.
THE UNITED STATES. } No. 61.

To the hon'ble Isaac S. K. Ogier, judge of the district court of the United States for the Southern district of California:

The petition of Pacificus Ord, of Monterey county, attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court in his proper person, in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 21st of February, 1852, Rafael Villavicencio, of California, presented a written notice or petition to the commissioners to ascertain and settle the private land claims in the State of California, claiming, in virtue of a grant from the Mexican nation, a tract of land called "San Geronimo," in the county of San Luis Obispo, in the State of California, with the boundaries described in said grant, and the juridical measurement and possession thereof, to wit, the sea-coast on one side, by the sierra or mountain range on the other, and at either end by the lines demarked between claimants (of) said land and the rancho of Don Julian Estrada and Don Vicente Felis; that said land was conceded to claimant by a grant issued on the 24th July, 1842, by Juan B. Alvarado, constitutional governor of the department of California, and thereby authorized to grant lands in the name and in behalf o the Mexi-

28 can nation; that on the 9th of August, 1842, juridical measurement, designation of limits, and delivery of said land was made, at the instance and on behalf of claimant, by J. Mariano Bonella, justice of the peace of that jurisdiction; that said land has been occupied by claimant according to law and the directions of the grant, and is now held by him in quiet possession; that said land has not been accurately measured, but its boundaries are well known and defined; that it is supposed to contain the quantity of two sitios of ganado mayor, (two square leagues,) little more or less, &c.

Your petitioner further represents that thereafter, to wit, on the 14th of February, A. D. 1853, the said commissioners confirmed by final decree the said claim of said Rafael Villavicencio for two square leagues, being the same land described in the grant, and of which possession was proved to have been long enjoyed.

That thereafter, to wit, on the 27th of June, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 61, reference to which it is prayed may be had and made a part of this petition.

That on the 10th of June, A. D. 1854, the hon'ble Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of the said final decree and proceedings of said commissioners in said cause, (No. 61,) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 7th of November, 1854, the said Attorney General of the United States filed, or caused to be
29 filed, in behalf of the United States, a notice in writing with the said clerk of said district court for the southern district of California, that the appeal in said cause of Rafael Villavicencio *vs.* The United States, from the decision of the said commissioners to ascertain and settle the private land claims in the State of California, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents that the said land claimed as aforesaid is within the jurisdiction of this hon'ble court.

And your petitioner further represents and alleges that the said claim of said Rafael Villavicencio for said land claimed and confirmed by said commissioners as aforesaid, is invalid, and said decree of confirmation erroneous, on the following grounds:

1. That the said Rafael Villavicencio shows no valid title to the said land claimed by him, and it is denied that he has any.

2. That the said land claimed as aforesaid is within ten leagues of the sea-coast, and was not, therefore, subject to colonization or grant by the said Governor Juan B. Alvarado without the previous authority of the supreme government.

3. That there is no evidence that the said alleged grant to Rafael Villavicencio was ever approved or confirmed by the territorial junta, or departmental assembly of California, or the supreme government, and it is denied that it ever was so approved or confirmed.

4. That there is no evidence that the said alleged grant is an orig-

inal, and that the signatures to the same are genuine ; and its genuineness is denied ; and there is no evidence that the map shown in the original, or an authentic copy of the map referred to in the
30 original grant and expediente.

5. That the alleged act of juridical possession shown is to "Rafael Villa," and not to Rafael Villavicencio, the claimant; and it is denied that judicial possession was ever given to the alleged grantee and claimant.

6. That the alleged judicial possession is for two and a half leagues, which is a half league more than the grant calls for.

7. That the alleged grant for said land does not contain a sufficient description to identify it.

8. That there is no evidence that the said land granted, as aforesaid, was ever occupied and improved by the building a house within one year by the grantee, as required by the conditions of said grant; and it is denied that it was so occupied and improved by the alleged grantee.

Wherefore the said Pacificus Ord, attorney for the United States for the southern district of California, for and in behalf of the United States, by reason of the premises and the laws and statutes in such case made and provided, prays that the said Rafael Villavicencio, or his attorney, may be served with a copy of this petition; and that this hon'ble court will review the said decision or final decree of confirmation of said commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said Rafael Villavicencio for said land confirmed as aforesaid, and that the same may be decreed invalid.

And all such other orders, judgments, or decrees, as may be just, with costs and general relief.

P. ORD,
Att'y of the United States for the Southern District of California.

Filed Dec. 4, 1854.

C E. CARR, *Cl'k.*

31 *Affidavit of Wm. Carey Jones, att'y of appellee.*

District court of the United States for the southern district of California.

RAFAEL VILLAVICENCIO, appellee, *ads.* THE UNITED STATES, appellant. } No. 8.

Wm. Carey Jones, being sworn, says that he is attorney for the appellee in the above cause; that he was not aware until on or about the 6th of September instant, after arriving at Los Angeles, that a petition for review had been filed or served in said cause, that his client, said appellee does not understand the English language and is not able to speak or read it; that he recently, at the village of San Luis Obispo, had a conversation with his said client on the subject of his (said appellee's) title to the land in question and the proceedings

necessary to obtain a final confirmation of it, in which his said client expressed surprise at being informed that his case was still pending, and appeared to be under the belief that it had been determined, and did not inform this deponent that any paper connected with the case had been served upon him; and deponent verily believes that said appellee was not and is not aware of the nature or object of the process served upon him, as shown by the return of the marshal herein, or of the necessity of the same being answered.

WM. CAREY JONES.

Sworn and subscribed before me this 12th Sept'r, 1855.

C. E. CARR, *Cl'k.*

Filed Sept'r 12, 1855.

C. E. CARR, *Cl'k.*

32 *Motion to set aside default.*

District court of the United States for the southern district of California.

RAFAEL VILLAVICENCIO, appellee, *ads.* THE UNITED STATES, appellant. } No. 8.

The appellee, by his counsel, moves, on cause shown by the affidavit of William Cary Jones, that the default taken herein be set aside and said cause reopened, and appellee be allowed to answer and said cause to proceed as if default had not been taken.

WM. CAREY JONES,
Att'y for Appellee.

Filed Sept'r 12th, 1855.

C. E. CARR, *Cl'k.*

33 *Answer.*

District court of the United States for the southern district of California.

THE UNITED STATES, appellants, *versus.* RAFAEL VILLAVICENCIO. } No. 8.

The answer of the appellee respectfully shows that the claim presented by him for the tract of land called San Geronimo, and which was confirmed to him by the commission of the United States for ascertaining and settling land titles in California, is a good and valid claim, and that the objections urged against it in the petition of the attorney of the United States are without foundation in fact or law. And the appellee prays this court that it will affirm his title

to said land, and declare it to be valid, and that it be decreed that he recover his costs in this cause expended.

By his Att'y, WM. CAREY JONES.

Filed Sept'r 26th, 1855.

C. E. CARR, *Cl'k*,
By J. W. ROSS, *Dep.*

34

35 *Motion and order to return transcript.*

RAFAEL VILLAVICENCIO, appellee, *ads.* THE UNITED STATES, appellant, } No. 8.—Transcript No. 61.

On motion of P. Ord, attorney of the United States, and on suggesting to the court that the transcript in this case is defective in this: that the opinion of the comm'rs refers to certain evidence establishing the genuineness of the alleged original papers therein referred to, which said evidence does not appear in said transcript. It is ordered by this court that the said transcript from the land commissioners be returned for such correction.

Filed Jan'y 29th, 1856.

C. E. CARR, *Cl'k.*

36

37 *Deposition of Julian Estrada.*

RAFAEL VILLAVICENCIO, appellee, *ads.* THE UNITED STATES, appellants. } No. 8.

Deposition of Julian Estrada, a witness on the part of appellee, in the above case, taken before Chas. E. Carr, U. S. com'r for the State of California, this 18th day of Feb'y, 1856. Present: P. Ord, U. S. att'y; Myron Norton for ap'ee. J. Q. Warren was sworn as interpreter.

Julian Estrada, being duly sworn, deposes and says, as follows:

Ques. What is your name, age, and place of residence?

Ans. My name is Julian Estrada; my age is 40 years; my residence is in the county of San Luis Obispo.

Ques. Do you know the rancho claimed in this case called San Geronimo; and if so, are you one of the neighboring rancheros?

Ans. Yes, I know it I am one of the neighboring rancheros.

Ques. Have you or not ever seen the original grant or title to the tract of land claimed in this case; and if so, when and where did you see it?

Ans. I have seen it. I saw it on the tract of land at the time judicial possession was given.

Ques. Look at the copy of the original title contained in the transcript in this case, on pages 13 and 14 of said transcript, and state whether or not you believe it to be a correct copy of the original title which you saw at the time judicial possession was given.

38 Ans. I have examined the copy and believe it to be a true copy of the original title I saw at the time judicial possession was given.

Ques. Are you acquainted with the signatures of Juan B. Alvarado and Manuel Jimeno, and have you seen them write?

Ans. I am acquainted with their signatures, and have seen them write.

Ques. By whom was the original title which you saw at the time judicial possession was given signed, and were those signatures the genuine signatures of the persons who signed the same?

Ans. It was signed by Juan B. Alvarado, as governor, and Manuel Jimeno, as secretary, and they were their genuine signatures.

Ques. Were you or not present on said rancho at the time judicial possession was given of the same; and if so, in what capacity were you so present?

Ans. I was present as an adjoining proprietor, having been cited for that purpose.

Ques. Who was the officer who gave judicial possession of this tract of land, and what office did he hold, and who were his assisting witnesses?

Ans. Mariano Bonilla, who was the alcalde at the town of San Luis Obispo. The assisting witnesses were, Victor Lenares, myself, and a foreigner by the name of William Rit, also Nicholos Robles.

Ques. Was there or not, at the time said juridical possession was given, a record or writing made of the same, and signed by the said alcalde and the said assisting witnesses?

Ans. There was such an "acto," and it was signed by the alcalde and assisting witnesses.

39 Ques. Did you or not sign the same with your own proper signature, and was the same signed by the same alcalde and the other assisting witnesses at the same time and in your presence?

Ans. I did sign the same with my own proper signature, and it was also signed at the same time in my presence by the alcalde and the other assisting witnesses.

Ques. Look at the act of judicial possession contained in the transcript in this case, on pages 8 to 12 inclusive, and state whether or not the same is a correct copy of the original act of juridical possession which was signed at the time by yourself, the said alcalde, and the other assisting witnesses whom you have named?

Ans. I have looked at it, and it is a correct copy of the original act of judicial possession which I signed at the time together with the alcalde and the assisting witnesses I have already named. The signature of Nicholos Robles is a mistake, it should have been Nieves Robles, as Nicholos could not write. The person who wrote the name substituted one brother for the other, both being present.

Ques. Who lives upon the rancho of San Geronimo?

Ans. The owner, generally known by the name of Rafael Villa, but his true name is Rafael Villavicencio. He has lived there with his family ever since he received possession of the place.

JULIAN ESTRADA.

Sworn to and subscribed this 18th day of Feb'y, 1856, before me.

C. E. CARR, *U. S. Com'r.*

Filed Feb'y 18th, 1856.

C. E. CARR, *Cl'k.*

40

41 *Deposition of Arcadio Borgues.*

RAFAEL VILLAVICENCIO, app'ee, *ads.* THE UNITED STATES, appellants. } Case No. 8.

Deposition of ——— ———, taken before C. Sims, United States commissioner for the district of California, at the United States court-house in the city of Los Angeles, on Tuesday, the 10th day of May, A. D. 1859, at 12 o'clock m. on said day, on behalf of the appellees, by the agreement of the said parties, to be used as testimony in a certain case now pending in the United States dist. court for the southern district of California, being case No. 8 on the docket of said court, wherein the United States are appellants and Rafael Villavicencio is appellee.

Present: J. R. Gitchell, U. S. dist. att'y, in behalf of the appellants, and J. L. Brent, in behalf of appellee, and W. G. Dryden, interpreter.

Arcadio Borques, a witness on behalf of the appellees, being sworn, answers to the following interogations, as follows:

Quest. What is your name, age, and place of residence?

Ans. My name, Arcadio Borques; I am a little more or less 28 years of age, and reside in the city of Los Angeles.

Quest. Are you acquainted with the tract of land situated in San Luis Obispo county, called San Geronimo; Los Cayucos, of Vicente Felis; and Santa Rosa, of Julian Estrada?

Ans. I know the above-mentioned lands.

Quest. Are you acquainted with the point or locality called the Portesuelo; if so, state where it is?

42 Ans. I know the point or locality called Portesuelo; it is situated in the road that goes to Santa Rosa. This road is the coast road, it passes over the land of San Geronimo, and goes towards Santa Rosa.

Quest. Do you know the point called Cañada de la Ordeña, and the Arryo del Toro?

Ans. I know the point called "Cañada de la Ordeñar;" I also know the point called "Arroyo del Toro." Those two points above mentioned are situated between the lands of Rafael Villa and Vicente Felis.

Quest. Have you been frequently over these three tracts of land?

Ans. I have passed frequently over them. They are points well known among the citizens in general. I myself learned their names by hearing them called so. I have known the above-mentioned lands from two to three years. I have heard the names of the above-mentioned places from old persons of that vicinity who knew the place well.

ARCADIO BORQUES.

Sworn to and subscribed before me this (10th) tenth day of May, A. D. 1859.

C. SIMS,
U. S. Commissioner for the South. Dist. of Cala.

I, C. Sims, of the city and county of Los Angeles and State of California, commissioner to take affidavits and bail in civil case pending in the courts of the United States, and depositions under the acts of Congress approved September 24th, A. D. 1789, February 20th, A. D. 1812, and March 1st, A. D. 1812, by virtue of my office of
43 clerk of the United States court of the southern district of California, and by special appointment by the United States circuit court for the State and circuit of California, do hereby certify that the foregoing depositions of Arcadio Borques was taken before me on the 10th day of May, A. D. 1859, according to the agreement of the said parties, at the United States district court-house in the city of Los Angeles and State of California, in behalf of the appellees; that the said Arcadio Borques was by me duly sworn, according to law, as a witness in said cause in the caption of this deposition mentioned, and, after being so sworn, his testimony was by me reduced to writing in his presence, and after having been by me carefully read to him, and by him corrected in every particular as he desired, was by him signed in my presence.

In witness whereof, I hereunto set my hand and private seal (having no seal of office) this 10th day of May, A. D. 1859.

C. SIMS, [L. S.]
United States Commissioner.

Filed this 10th day of May, A. D. 1859.

C. SIMS, *Cl'k.*

44 *Deposition of Ignacio del Valla.*

RAFAEL VILLAVICENCIO, app'ee, *ads.*
THE UNITED STATES, app'lts. } Case No. 8.

Deposition of Ignacio del Valla, taken before C. Sims, United States commissioner for the district of California, at the United States court-house in the city of Los Angeles, on Tuesday, the 10th day of May, A. D. 1859, at 12 o'clock m. on said day, on behalf of the appellees, by the consent of the parties, to be used as testimony in a certain cause now pending in the United States district court for the southern district of Cal'a, being case No. 8 on the docket of said court, wherein Rafael Villavicencio is appellee, and the United States are appellants.

Present: J. R. Gitchell, U. S. dist. attorney, in behalf of the appellants, and J. L. Brent in behalf of appellee, and W. G. Dryden, interpreter.

Quest. What is your name, age, and place of residence?

Ans. My name is Ignacio del Valla; and I am fifty years of age; and I reside in the city of Los Angeles.

Quest. Are you acquainted with Rafael Villavicencio? If so, state how long you have known him, and whether you have ever known him by any other name.

Ans. I know him, and have known him about 34 years. His legiti-

mate name is Rafael Villavicencio, but he and the rest of the family were called Villa, commonly, for the sake perhaps of abbreviation.

YGNACIO DEL VALLA.

45 Sworn and subscribed to before me this 10th day of May, 1859.

C. SIMS, *U. S. Commissioner.*

I, C. Sims, of the city and county of Los Angeles and State of California, commissioner to take affidavit and bail in civil cases pending in the courts of the United States, and depositions under the acts of Congress, approved September 24th, A. D. 1789, February 20th, A. D. 1812, and March 1st, A. D. 1812, by virtue of my office of clerk of the United States court of the southern district of California, and by special appointment by the United States circuit court for the State and circuit of California, do hereby certify that the foregoing deposition of Ignacio del Valla was taken before me on the 10th day of May, A. D. 1859, according to the agreement of the said parties, at the United States district court-house in the city of Los Angeles and State of California, in behalf of the appellees.

That the said Ignacio del Valla was by me duly sworn, according to law, as a witness in said cause in the caption of this deposition mentioned, and, after being so sworn, his testimony was by me reduced to writing in his presence, and after having been by me carefully read to him, and by him corrected in every particular as he desired, was by him signed in my presence.

In witness whereof, I hereunto set my hand and private seal (having no seal of office) this 10th day of May, A. D. 1859.

C. SIMS,
United States Commissioner.

Filed this 10th day of May, A. D. 1859.

C. SIMS, *Cl'k.*

46

47 *Deposition of Andres Pico.*

RAFAEL VILLAVICENCIO, app'ee, *ads.* THE UNITED STATES. } Case No. 8.

Deposition of Andres Pico, taken before C. Sims, United States commissioner for the district of California, at the United States court-house in the city of Los Angeles, on Thursday, the 29th day of September, A. D. 1859, at 11 o'clock a. m. on said day, on behalf of the appellees, by the consent and agreement of the parties, to be used as testimony in a certain cause now pending in the U. S. dist. court for the southern dist. of Cal'a, being case No. 8 on the docket of said court, wherein Rafael Villavicencio is appellee, and the United States are appellants.

Present: J. R. Gitchell, attorney, in behalf of the appellants, and J. L. Brent, in behalf of appellee.

Quest. What is your name, and age, and place of residence?

Ans. My name is Andres Pico; my age is 48 years; and I reside in the county of Los Angeles.

Quest. Are you acquainted with the signature of Juan B. Alvarado, who was governor of the Californias in July, 1842, and Manuel Jimeno, his secretary?

I am, for I have seen them sign their names frequently.

Quest. Look at an "Exhibit C. S. No. 1," and say whether you have ever seen the original, of which that is a copy; and if so, where?

Ans. I have seen the original of this exhibit in the office of the surveyor general for the State of California, forming a part of the archives.

48 Quest. How do you know that this exhibit is a copy of the original?

Ans. I know it to be an exact copy of the original, because I myself compared the two together carefully; and I know this to be the same copy, because I have placed two private marks upon the same, so that I might know it to be the same copy.

Quest. Were the signatures of Juan B. Alvarado and Mamuel Jimeno, appearing upon the original in the office of the surveyor general, their genuine signatures?

Ans. They were their genuine signatures.

ANDRES PICO.

Sworn and subscribed to before me this the 29th Sept., 1859.

C. SIMS,
U. S. Commissioner.

I, C. Sims, of the city and county of Los Angeles and State of California, commissioner to take affidavits and bail in civil case pending in the courts of the United States, and depositions under the acts of Congress, approved September 24, A. D. 1789, February 12th, A. D. 1812, and March 1st, 1812, by virtue of my office of clerk of the United States court of the southern district of California, and by special appointment by the United States circuit court for the State and circuit of California, do hereby certify that the foregoing depositions of Andres Pico was taken before me on the 29th day of September, A. D. 1859, according to the agreement of the said parties, at the United States district court-house in the city of Los Angeles and State of California, in behalf of the appellees; that the said Andres Pico was by me duly sworn, according to law, as a witness in
49 said cause in the caption of this deposition mentioned, and after being so sworn, his testimony was by me reduced to writing in his presence, and after having been by me carefully read to him, and by him corrected in every particular as he desired, was by him signed in my presence.

In witness whereof, I hereunto set my hand and private seal (having no seal of office) this 29 day of Sept., A. D. 1859.

C. SIMS,
United States Commissioner.

Filed this 29th Sept., 1859.

C. SIMS, *Cl'k.*

50

51 *Exhibit "C. S. No. 1."*

Sello primero, seis pesos.

Habilitado por la aduana maritima de Monterey de la alta California para los años de 1842 y 1843.

ALVARADO.
ANTONIO M'A OSIO.

AD'A MARITA DE MONT'Y. MEXICAN EAGLE. } Juan B. Alvarado, gobernador constitutional del departamento de los Californias.

Por cuanto el ciudadano Rafael Vallavicencio ha pretendido para su beneficio personal y el de su familia el parage conocido con el nombre de San Geronimo colindante con el rancho de D'n Julian Estrada con el del ciudadano Vicente Felis con la sierra y el mar, practicadas previamento las diligencias y averiguaciones convernientes segun lo dispuesto por leyes y reglamentos usando de las facultades que me son conferidas a nombre de la nacion Mejicana he venido en consider le el terreno mencionado declandole la propiedad, de el por las presentes letras, sugetandose a la aprobacion de la ex'ma junta departamental y bajo las condiciones siguientes.

1a. Podra sercarlo sin perjudicar las trabesias caminos y servidumbres; le disfrutara libre y exclusivamente destinandole al uso o cultivo que mejor le acomode pero dentro un año fabricara casa y estara habitado.

2a. Solicitara del juez respectivo que le de la posecion juridica en virtud de este despacho por el cual se demarcaron las linderos en cuyos limites pondra a mas de los mojoneras algunas arboles frutales o silvestres de algun utilidad.

3a. El terreno de que se hace donacion es de dos sitios de ganado mayor segun explicar el diceño que corre aglegado en el espediante respectivo. El juez que diere la posecion lo hare medir a conforme a ordenanza quedando el sobrante que resulte a la nacion para los usos convenientes.

52 4a. Si contravinieri a estas condiciones perdera su derecho al terreno y sera denuciable por otro.

En consecuencia mando que teniendose por firme y baledere este titulo se tome razon de el en el libre respectivo y se entreque al interesado para su resguado y demas fines.

Dado en Monterey á veinte y cuatro de Julio de mil ocho cientos cuarenta y dos.

JUAN B. ALVARADO.
MAN'L JIMENO, *Scrio.*

Queda tomada razon de este despacho en el libre de acientos de terrenos baldios a fojo 14 vta.

JIMENO.

(For translation see ante page 15.)

(Endorsed:) No. 61. Rafael Villavicencio—San Geronimo. Orignal Grant.
Filed in office Feb'y 8, 1853.

GEO. FISHER, *Sec'y.*

Recorded in record of evid'ce, vol. 6, page 319 and 320.
GEO. FISHER, *Sec'y.*

53 OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, as also the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law do hereby certify that the four (4) preceding and hereunto annexed pages of tracing paper numbered from one to four (4) inclusive, exhibit a true, full, and correct copy of a document, together with the endorsements thereon, as the same appears on file in case No. 61 on the docket of said board of commissioners.

In testimony whereof, I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San [SEAL.] Francisco, this 30th day of June, 1859.

J. W. MANDEVILLE,
U. S. Surveyor General for California.

Examined and found correct.

R. C. HOPKINS,
Keeper of Archives.

Filed in office this the 29th Sept., 1859.

C. SIMS, *Clerk.*

54

55 *Stipulation concerning certified papers and depositions.*

In the district court of the south. district of California.

UNITED STATES, appellants,
vs.
RAFAEL VILLAVICENCIO, appellee.

It is hereby stipulated that copies of the grants to Julian Estrada, in case No. 73, and to Vicente Felis, in No. 155 on docket of said court, certified to by the clerk of said court, may be read in evidence with the same effect as the originals duly proven.

Los Angeles, May 10th, 1859.

J. R. GITCHELL,
U. S. Dist. Att'y, Southern Dist. California.
J. LANCASTER BRENT,
Att'y for Appellees

It is further stipulated that the deposition of Arcadio Borgues and Ygnacio del Valle, taken on this day before U. S. commissioner, C. Sims, be read in evidence herein with the same effect as if taken in open court in the trial thereof.

Los Angeles, May 10th, 1859.

J. R. GITCHELL,
U. S. Dist. Att'y, South'n Dist. California.
J. LANCASTER BRENT,
Att'y for Appellees.

Filed October 1st, 1859.

C. SIMS, *Cl'k.*

56

57 *Decree of confirmation.*

In the district court of the United States for the southern district of California.

RAFAEL VILLAVICENCIO, appellee,
vs.
THE UNITED STATES, appellants,

This cause coming on to be heard upon an appeal from the decree of the decision of the commissioners to ascertain and settle private land claims in the State of California, under an act of Congress affirmed March 3rd, 1851, upon the transcript of the proceedings and decision of said commissioners, and the papers and evidence upon which said decision was rendered, and upon such further testimony as was taken by the order of this court, and it appearing that said transcript and the notice of appeal of said appellants was duly filed: it is ordered, adjudged, and decreed, that the decree of the land commissioners be, and the same is hereby, confirmed. And it is further ordered, adjudged, and decreed, that the claim of the said Rafael Villavicencio is good and valid, and the same is hereby confirmed to the extent *to two* square leagues and no more.

The lands of which confirmation, are those known by the name of "*San Geronimo,*" and are situated and lying in the county of *San Luis Obispo*, and are the same lands granted to Rafael Villavicencio by Governor Juan B. Alvarado, or by deed of grant bearing date July 24th, 1842, and are bounded by the rancho of Julian Estrada and the rancho of Vicente Felis, as they existed at the last said date,
and by the Pacific ocean and the sierra; and the said claimant
58 is authorized to select the lands hereby confirmed to him to the extent *of two square leagues* and *no more,* within the above mentioned *exterior* lines, reference being had for further description to the judicial possession and to the map or deseño on file in this case.

Given under my hand in open court this 14th of October, A. D. 1859.

ISAAC S. K. OGIER,
U. S. Dist. Judge of the S. Dist. of Cal.

Filed in office this 14th Oct., 1859.

C. SIMS, *Cl'k.*

59 *Order granting appeal to the U. S. Supreme Court.*

Whereupon the following order was had in open court, to wit:

In the district court of the United States for the southern district of California.—Intermediate term, January, A. D. 1862.

RAFAEL VILLAVICENCIO *vs.* THE UNITED STATES. } No. 8, D. C.

MONTEREY, *Thursday, May 1st,* 1862.

Now comes B. C. Whiting, U. S. district att'y, and moves the court that an appeal be allowed the United States in this case to the Supreme Court of the United States, from the order and decree of this court heretofore rendered; which motion, being heard and by the court understood, is granted.

60 OFFICE OF THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

I, John O. Wheeler, clerk of the United States district court for the southern district of California, hereby certify the above and foregoing fifty-nine pages, numbered from 1 to 59, both inclusive, to contain a full, true, and correct transcript of the record of the proceedings and of the decision of the said court, of the documentary evidence, and of the testimony of the witnesses upon which said decision was founded, on file in my office in case No. 8 on the docket of said court, wherein Rafael Villavicencio is claimant against the United States for the place called "San Geronimo."

In witness whereof, I have hereunto signed my name and affixed the seal of said court, at Monterey, Cal'a, this the thirtieth [SEAL] day of June, A. D. 1862.

JOHN O. WHEELER, *Clerk.*

Filed Octo. 21st, 1862.